

REMARKS

Once again, the Examiner is thanked for the indication that claims 28-30 are allowable.

The following remarks address the pending rejections.

Patent eligibility

- 5 Claims 19-21 and 23-27 are newly-rejected under 35 USC §101 as being patent ineligible on grounds that the “computer readable medium” is not specifically defined in the written description. While the Applicants do not concede this point, the phrase “non-transitory” has been included per the Examiner’s helpful suggestion. Reconsideration is requested.

Alleged anticipation

- 10 Claims 1-3, 10-12 and 19-21 are rejected under 35 USC §102(b) as being anticipated by Beyda et al, WO 02/03291. With respect, this rejection is traversed - as the reference does not teach each and every element of each rejected claim.

- Beyda describes a method and system for delivering advertisements from an advertising server to a web browser in a manner that prevents the operator of the advertising server from
15 collecting private information about the client. To this end, instead of having an advertisement delivered to a web browser directly (from the advertising server) to a web browser directly, a privacy server 30 acts to obtain the advertisement and deliver it to the browser. In this manner, the privacy server acts as a relay of the advertisement. The system uses cookies in their usual manner, but the technique (using the privacy server) ensures that the advertising server cannot
20 write cookies to the browser that can be correlated with the user.

The entire rejection is based on just two (2) paragraphs in the Background section of the reference, namely, the text at page 4, lines 3-19. *See, Office Action, Section 7-9, at pages 3-5.*

- The subject matter of this application relates generally to a privacy proxy server or privacy service. If a user of such a system or service is very mobile and uses many different
25 client devices, there may be occasions or environments in which the user would like to receive some or all “cookies” (typically, HTTP files produced by web servers) that include tracking information at a client device while filtering out some or all cookies in a different environment or on a different occasion, even though the user may or may not continue to employ a privacy proxy or privacy service in these different environments or upon these different occasions. For

example, if a user only accesses a certain web site from the user's personal laptop and never from an office desktop, then the user may want to allow cookies through the privacy proxy server to the laptop; the laptop would tend to have the latest cookies stored in its cookie cache, which might be important for certain sites that are highly customized or individualized. In this
5 example, the user's laptop would have recent cookies if the user decided to use the laptop without accessing the Web through the privacy proxy server.

With the subject matter described herein, the user is able to create different client profiles based on the user's needs, thereby giving the user a finer granularity of control over the cookie filtering functionality of a privacy proxy server or a privacy service. In particular, with the
10 described subject matter, the user can *customize* the operation of the privacy proxy server or the privacy service on the basis of *user-configured* information. The privacy proxy then filters cookies that are returned by the server *in accordance with user-configurable parameters*.

So, in the first instance, an aspect of the invention in independent claims 1, 10 and 19 is the user's ability to customize the operation of the privacy proxy server. The relevant claim
15 language, in particular, is found in the following clause in each of independent claims 1, 10 and 19: "receiving a set of parameters in a client message at the proxy server, wherein the set of parameters are configured by the user at the client." (There is a significant error in the Examiner's interpretation of the "set of parameters" phrase, but this error is discussed below). The "by the user at the client" phrase refers to the end user. This end user configurability feature
20 is completely absent from the Beyda teachings and, in particular, the Examiner-cited portions at page 4, lines 4-19. These paragraphs, in contrast, describe only that a user "may access a Web site" and obtain web pages. This section of the document does not even relate to the later-described privacy server, and there is nothing in the text regarding any configuration action taken by the end user. Indeed, a careful reading of Beyda indicates the exact opposite of any such user
25 configurability of the privacy server. In this regard, the Examiner's attention is directed to the following statements in Beyda: "What is needed in the art, and provided by the invention, are simple and effective methods and devices, independent of the user, that allow third party providers ... [to take certain actions] while limiting their ability to gather and correlate an Internet user's data." *See, Beyda, at page 5, lines 17-21*. Moreover, with respect to the Beyda-

described cookie functionality, Beyda goes even further, stating that “[n]o user interaction is required ...”. *See, Beyda, at page 18, lines 32-33.*

Thus, contrary to the Examiner’s contention, the claimed step of “receiving a set of parameters in a client message at the proxy server, wherein the set of parameters are configured by the user at the client” is absent from the Beyda teachings, and those teachings actually recite the opposite – no client interaction.

Turning now to the “set of parameters” themselves, the Office action is quite clear; the Examiner contends that the “set of parameters” are simply the data within a cookie itself: “e.g., ID=123 Domain=tp1.com” *See, Office action at Section 7, page 3, end of first full paragraph, and page 4, fourth full paragraph.* With all due respect, this reading is incorrect.

In this regard, the Examiner is reminded that the claims themselves define the “set of parameters” directly. In particular, each of independent claims 1, 10 and 19 also include this particular limitation: “wherein the parameters [which are received after being “configured by the user at the client] comprise domain identifiers associated with indications of whether to block transmission of cookies associated with the domain identifiers.” The Beyda cookie data includes a domain identifier, but (with respect to what is claimed) nothing more; that domain identifier is not configured by an end user at the client, and it is not associated with an indication of whether to block transmission of cookies associated with that identifier. Moreover, the Examiner is reminded that the “set of parameters” are received “in a client message” whereas the data cited by the Examiner (as reading on the claimed “set”) is received in the “cookie” – which necessarily is delivered by the privacy server (not the client).

With respect, the data in the cookie is not the “set of parameters” positively recited in the claim either structurally or operationally. The Examiner’s reading of the “set of parameters” as the cookie data is incorrect because it ignores the wording in the claim (e.g., the requirement that the domain identifiers be “associated with indications of whether to block transmission of cookies associated with the domain identifiers”) and, more importantly, the reading is entirely inconsistent with the context in which the claim phrase is used. As noted above, the “set of parameters” must be received “in a client message” from the client and those “parameters” must be “configured by the user at the client.” A cookie generated by a server can never meet this

requirement. Indeed, Beyda defines a cookie as a “message or tag transmitted from a Web server and stored by a Web browser.” *See, Beyda, page 9, lines 22-23*. As a legal matter, a claim term should not be interpreted in a vacuum, devoid of the context of the claim as a whole. *See Hockerson-Halberstadt, Inc. v. Converse, Inc.*, 183 F.3d 1369, 1374 (Fed. Cir. 1999) (“Proper claim construction ... demands interpretation of the entire claim in context, not a single element in isolation.”); *ACTV, Inc. v. Walt Disney Co.*, 346 F.3d 1082, 1088 (Fed. Cir. 2003) (“While certain terms may be at the center of the claim construction debate, the context of the surrounding words of the claim also must be considered in determining the ordinary and customary meaning of those terms.”). Here, the “set of parameters” has a specific structure (information “configured by the user at the client”), as well as a source (“a client message”). These are positive limitations that must be found to establish an alleged anticipation.

Each independent claim also explains how the set of parameters (as configured by the end user at the client) are used by the proxy server: “processing the cookie at the proxy server in accordance with the [] set of parameters and [a] domain identifier [extracted from a response message directed to the client from a server].” In the first instance, the text at Beyda page 4, lines 3-19 says nothing about an intermediary “processing” a cookie. Indeed, in the Examiner cited portion, there is no intermediary at all, as the “third party server” (as described there) is in direct contact with the end user browser. Moreover, the claim requires more than just mere cookie processing, rather the processing is “in accordance with the retrieved set of parameters” which, as noted above, are the parameters configured by the end user and provided to the proxy server “in a client message.” Beyda, at page 4, lines 3-19, does not meet this explicit requirement.

Stated plainly, because Beyda works without “user intervention” (page 18, lines 32-33) and “independent of the user” (page 5, line 18), none of the limitations in claims 1, 10 and 19 concerning the “set of parameters” being “configured by the user at the client”, being received at the proxy “in a client message”, or being used to “[process a] cookie”, are met by the cited reference. Indeed, the Examiner never explains the logic of how Beyda’s alleged “set of parameters” – being in the cookie themselves – can be used to “[process] the cookie”, which is what the claim requires.

The user configurability and cookie processing functions in independent claims 1, 10 and 19 are wholly absent from the cited reference and, in particular, the text at page 4, lines 3-19.

Dependent claims 2, 11 and 20 describe the cookie processing steps more specifically and, in particular, the steps of blocking the cookie from transmission, caching the cookie at the proxy, and sending a modified response message to the client. This is the scenario such as described in steps 614, 618 and 620 of FIG. 6A, where the user has selected an option not to allow the cookie through the privacy service proxy server. Beyda has no concept of selectively blocking some cookies while allowing others to pass back through to the client.

Dependent claims 3, 12 and 21 likewise describe the cookie processing steps but in this case describe the operation where the cookie (of a recognized domain) is passed back to the client. This is the scenario such as described in step 614 and 616 of FIG. 6A, where the user has selected an option to allow the cookie through the privacy service, in which case the privacy service sends the response to the client without removing or detaching the cookie from the response. As described above, Beyda describes a system where there is no "user intervention" and thus no configurability.

To establish anticipation, every element and limitation of the claimed invention must be found in a single prior art reference, arranged as in the claim. *Karsten Mfg. Corp. v. Cleveland Golf Co.*, 242 F.3d 1376, 1383 (Fed. Cir. 2001)

The claimed subject matter must be disclosed "clearly and unequivocally" in the reference. *In re Arkley*, 455 F.2d 586, 587 (CCPA 1972). Moreover, anticipation is not established if, in reading a claim on something disclosed in a reference, it is necessary to pick, choose and combine various portions of the disclosure, which according to the teachings of the reference, are not directly related to each other. *Id.*, 455 F.2d at 587-88.

The prior art reference must describe every limitation in a claim either explicitly or inherently. *In re Schreiber*, 128 F.3d 1473, 1477 (Fed. Cir. 1997). Inherent anticipation, however, cannot be based on possibilities or probabilities. *Akamai Tech., Inc. v. Cable & Wireless Internet Serv., Inc.*, 344 F.3d 1186, 1192 (Fed. Cir. 2003) ("A claim limitation is inherent in the prior art only if it is necessarily present in the prior art, not merely probably or possibly present."); *In re Robertson*, 169 F.3d 743, 745 (Fed. Cir. 1999) ("Inherent anticipation

requires that the missing descriptive material is 'necessarily present,' not merely probably or possibly present, in the prior art").

Disclosures in a reference relied on to prove anticipation must be so clear and explicit that those skilled in the art will have no difficulty in ascertaining their meaning. *In re Turlay*, 304 F.2d 893, 899 (CCPA 1962).

“Absence from the reference of any claimed element negates anticipation.” *Kloster Speedsteel AB v. Crucible, Inc.*, 793 F.2d 1565, 1571 (Fed.Cir.1986).

For the reasons set forth above, Beyda does not anticipate any of claims 1-3, 10-12 or 19-21.

Reconsideration is requested.

Alleged obviousness

Claims 5-9, 14-18 and 23-27 are rejected under 35 USC §103(a) as being unpatentable over Beyda in view of Lee et al, U.S. Publication No. 2002/0178381. With respect, this rejection also is traversed.

Lee describes a proxy filtering technique that identifies undesirable content in responses sent to a user, such as in e-mail or in downloadable files, from an Internet or intranet site. The system utilizes a redirection program that identifies content requests from a user to a target server. The redirection program redirects the request to a proxy server that sends the request to the target server. Upon receipt of the response from the target server, the proxy server scans the response, which includes any attachments, for undesirable content. The proxy server then acts upon the response, and any undesirable content, in accordance with default or user-defined parameters, such as removal of the undesirable content. The proxy server may then send the response, as modified, or a notification message to the redirection program forwarding to the user.

“[A]n applicant can overcome a [Section 103] rejection by showing insufficient evidence of *prima facie* obviousness or by rebutting the *prima facie* case, ...” *See, In re Kahn*, 441 F.3d 977, 985-86 (Fed. Cir. 2006). In considering this question, it is appropriate to consider whether the Examiner has met his or her burden to show that the claimed subject matter is disclosed "clearly and unequivocally" in a cited reference. *In re Arkley*, 455 F.2d 586, 587 (CCPA 1972).

This issue is evaluated from the viewpoint of a person of ordinary skill in the art, who is a person of ordinary creativity, not an automaton. *KSR Int'l Co. v. Teleflex, Inc.*, 550 U.S. 398, 421, 127 S.Ct. 1727 (2007).

The recited dependent claims of course include the limitations in their parent claims.

5 These parent claims are subject to the defective anticipation rejection, which has been addressed above. Accordingly, there is no *prima facie* obviousness here due to the numerous deficiencies in Beyda, and these arguments are incorporated herein by reference. The Examiner has not applied Lee to the subject matter of each parent claim (to which Beyda is applied).

10 Thus, as applied by the Examiner, the combination of the cited art still fails to disclose at least the following steps in each of the recited dependent claims:

“receiving a set of parameters in a client message at the proxy server, wherein the set of parameters are configured by the user at the client;

15 storing the set of parameters at the proxy server, wherein the parameters comprise domain identifiers associated with indications of whether to block transmission of cookies associated with the domain identifiers;

...

extracting from the response message a domain identifier associated with the server;

retrieving the set of parameters; and

20 processing the cookie at the proxy server in accordance with the retrieved set of parameters and the extracted domain identifier.”

Dependent claims 5, 14 and 23 are separately patentable as they describe the further step of determining if the set of parameters contains an indication that the user has enabled cookie processing by the proxy server. In one embodiment, this refers to determining whether a “source domain filter enable flag” (218) is set. The Examiner’s rejection is silent as where this
25 “indication” is shown either in Beyda or Lee. This is a failure of proof, namely, the requirement of 37 CFR §1.104(c)(2).

Dependent claims 6, 15 and 24 are separately patentable as they describe the further steps of managing “multiple sets of parameters for the user.” This is a client profile option. Here, the Examiner’s rejection is silent as well, pointing only to unspecified portions of the earlier

rejection. This is a failure of proof under 37 CFR §1.104(c)(2). Neither Beyda nor Lee disclose or suggest “multiple” user-configurable “sets of parameters” that comprise “domain identifiers associated with indications of whether to block transmission of cookies associated with the domain identifiers.”

5 With respect to these limitations, there is “insufficient evidence of *prima facie*
obviousness.” *See, In re Kahn*, 441 F.3d at 985-86.

The remaining dependent claims are patentable for the same reasons.

Nothing herein shall be deemed an admission regarding the Examiner's factual findings or conclusions including, without limitation, the findings and conclusions regarding each dependent claim. Nevertheless, separate arguments regarding the other dependent claims are considered unnecessary at this time due to the deficiencies noted above. Applicant reserves the right to distinguish the Examiner's findings and conclusions regarding these other claims in any future communication regarding this matter.

A Notice of Allowance is requested.

15 Respectfully submitted,

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